

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-30, 52 and 57-61 are pending in this application. Claims 19-30 and 57-60 are allowed. Claims 1, 16 and 52 are amended and claims 51 and 53-56 have been cancelled. Claims 1, 16 and 19 are the independent claims.

Oath/Declaration

The Examiner notes that the declaration filed June 14, 2004 lists Chang Ki Hong twice as the inventor with two different residences. In addition, the Examiner notes that Hyo San Lee is listed as an inventor in the priority document, but not in the present application. Applicants appreciate the Examiner's notice of this discrepancy and submit that appropriate steps are being taken to correct the inventorship.

Specification Objection

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Applicants respectfully disagree. Page 3, lines 15-22, of the specification provide support for the claim limitation "a second reactant consisting of a chemical not containing the supercritical first reactant" in claims 1 and 61. See MPEP 2173.05 (e) ("The mere fact that a term or phrase used in the claim has no antecedent basis in the specification disclosure does not mean, necessarily, that the term or phrase is indefinite. There is no requirement that the words in the claim must match those used in the specification disclosure. Applicants are given a great deal of latitude in how they choose to define their invention so long

as the terms and phrases used define the invention with a reasonable degree of clarity and precision”.

Therefore, Applicants respectfully request that the objection to the specification be withdrawn.

Claim Objections

Claims 51, 53 and 55-56 are objected to under 37 C.F.R. 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claims 51 and 53-56 have been cancelled, and so the objection to these claims is now moot. Therefore, Applicants respectfully request that the objection to claims 51, 53 and 55-56 be withdrawn.

Rejections under 35 U.S.C. § 112

First Paragraph

Claims 1-5, 11-15, 51 and 61 stand rejected under 35 U.S.C. § 112, first paragraph, failing to comply with the written description requirement. Applicants respectfully traverse this rejection for the reasons detailed below.

The Examiner states that the newly added negative limitation “a second reactant consisting of a chemical not containing the supercritical first reactant” in claims 1 and 61 is new matter. Applicants respectfully disagree. The burden of establishing a *prima facie* basis to deny patentability to a claimed invention on any ground is always upon the Examiner. *See In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Adequate description under the first paragraph of 35 U.S.C. § 112 does not require *literal* support for the claimed invention. *See In re Herschler*, 591 F.2d 693, 200 USPQ 711 (CCPA 1979); *In re Edwards*, 568 F.2d 1349, 196 USPQ 465 (CCPA 1978); *In re Wertheim* 541 F.2d 257, 191 USPQ 90 (CCPA 1976).

Rather, Applicants need only to convey to one of skill in the art that Applicant had possession of the concept of what is claimed in order to satisfy the description requirement. *See In re Anderson*, 471 F.2d 1237, 176 USPQ 331 (CCPA 1973). Therefore, Applicants respectfully submit that one of skill in the art would have known that Applicants had possession of the concept that “the second reactant does not contain the supercritical first reactant” based on the original disclosure. *See Ex parte Parks*, 30 USPQ2d 1234, 1236 (Bd. Pat. App. & Inter. 1993) (lack of literal basis in disclosure for limitation that decomposition step of claims be “conducted in the absence of a catalyst” does not establish prima facie case for lack of descriptive support).

The Applicants, therefore, respectfully request that the rejection to Claims 1-5, 11-15, 51 and 61 under 35 U.S.C. § 112, first paragraph, be withdrawn.

Second Paragraph

Claims 1-5, 11-15, 51 and 61 stand rejected under 35 U.S.C. § 112, second paragraph, failing to comply with the written description requirement. Applicants respectfully traverse this rejection for the reasons detailed below.

The Examiner states that the newly added negative limitation “a second reactant consisting of a chemical not containing the supercritical first reactant” in claims 1 and 61 fails to distinctly claim the subject matter which the applicant regards as his invention. Applicants respectfully disagree.

MPEP § 2173.05 (i) states that so long as the boundaries of the patent protection sought are set forth definitely, albeit negatively, the claim complies with the requirements of 35 U.S.C. §112, second paragraph. There is nothing inherently ambiguous or uncertain about a negative limitation. *See In re Wakefield*, 422 F.2d 897, 899, 904, 164 USPQ 636, 638, 641 (CCPA 1970)

(“a claim which recited the limitation "said homopolymer being free from the proteins, soaps, resins, and sugars present in natural Hevea rubber" in order to exclude the characteristics of the prior art product, was considered definite because each recited limitation was definite”); *In re Barr*, 444 F.2d 588, 170 USPQ 330 (CCPA 1971) (the negative limitation "incapable of forming a dye with said oxidized developing agent" was definite because the boundaries of the patent protection sought were clear).

In addition, MPEP § 2173.05(i) suggests that *In re Schecter*, the case the Examiner cites on page 4 of the Office Action, is no longer good law. Therefore, Applicants respectfully submit that the claim limitation “a second reactant consisting of a chemical not containing the supercritical first reactant” in claims 1 and 61 does distinctly claim the subject matter which the applicant regards as his invention.

The Applicants, therefore, respectfully request that the rejection to Claims 1-5, 11-15, 51 and 61 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 1-2, 4, 6-8, 11-16 and 51-56 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Mullee (U.S. Patent No. 6,306,564) as evidenced by Chandra (U.S. Publication No. 2002/0014257) or WO 02/11191. Applicants respectfully traverse this rejection for the reasons detailed below.

In Mullee, supercritical CO₂ is used in both the first and second resist removal steps. However, in example embodiments, the treatment with supercritical CO₂ is performed separately from the treatment with a second reactant consisting of a chemical that does not contain supercritical CO₂, for example, the treatment with ozone does not include supercritical CO₂. Applicants have amended independent claims 1 and 16 to clarify this difference.

The Applicants, therefore, respectfully request that the rejection to Claims 1 and 16 under 35 U.S.C. § 102(e) be withdrawn.

Claims 2, 4, 6-8, 11-15 and 51-56, dependent on independent claims 1 and 16, are patentable for the reasons stated above with respect to claims 1 and 16 as well as for their own merits.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection to independent claims 1 and 16 and all claims dependent thereon.

CONCLUSION

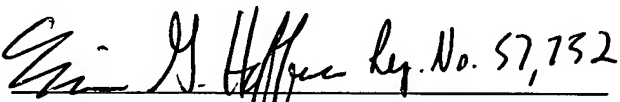
In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Erin G. Hoffman, Reg. No. 57,752, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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